



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2011-0406; EPA-R05-OAR-2013-0083; FRL-9811-6]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Indiana; Sulfur Dioxide and Nitrogen Dioxide Ambient Air Quality  
Standards.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on April 15, 2011, and supplemented on January 30, 2013, to revise the Indiana state implementation plan (SIP) for nitrogen dioxide (NO<sub>2</sub>) and sulfur dioxide (SO<sub>2</sub>) under the Clean Air Act (CAA). This submittal consists of revisions to the Indiana Administrative Code (IAC) that amend the national ambient air quality standards (NAAQS) for NO<sub>2</sub> and SO<sub>2</sub> to be consistent with the NAAQS that EPA promulgated in 2010.

**DATES:** This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the

rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Nos. EPA-R05-OAR-2011-0406, EPA-R05-OAR-2013-0083 by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov)
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID Nos. EPA-R05-OAR-2011-0406, EPA-R05-OAR-2013-0083. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov),

including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background.

- A. When and why did the State make this submittal?
- B. Did the State hold public hearings for this SIP revision?

- II. How were the NO<sub>2</sub> and SO<sub>2</sub> NAAQS revised by EPA?
- III. What are the revisions that the State requested?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews.

#### **I. Background.**

A. When and why did the State make this submittal?

Indiana's April 15, 2011, submittal, supplemented on January 30, 2013, revises its existing IAC to be consistent with the Federal primary and secondary NAAQS for NO<sub>2</sub>, and SO<sub>2</sub>, which were published in the Federal Register, respectively, on February 9, 2010, (75 FR 6474) and June 22, 2010, (75 FR 35520) and codified in 40 CFR part 50. At the state level, these provisions became effective on January 16, 2013.

B. Did the State hold public hearings for this SIP revision?

Public hearings for the NO<sub>2</sub>, and SO<sub>2</sub> NAAQS revision were held on December 10, 2010, and November 7, 2012. No comments were received at these hearings.

#### **II. How were the NO<sub>2</sub> and SO<sub>2</sub> NAAQS revised by EPA?**

##### Nitrogen Dioxide (NO<sub>2</sub>)

On February 9, 2010, revisions to the NO<sub>2</sub> NAAQS were published in the Federal Register (73 FR 6474) and codified at 40 CFR 50.11. EPA strengthened the primary (health-based) NO<sub>2</sub>

NAAQS by adding a 1-hour NO<sub>2</sub> standard of 100 parts per billion (ppb) and retaining the annual average of 53 ppb. This new standard is achieved when the 3-year average of the annual 98<sup>th</sup> percentile of the daily maximum 1-hour average concentration is less than or equal to 100 ppb, as determined in accordance with 40 CFR part 50, appendix S. Under 40 CFR 50.11(d), ambient NO<sub>2</sub> concentrations are to be measured by either: (1) a Federal reference method based on appendix F to 40 CFR part 50; or (2) by a Federal equivalent method designated in accordance with 40 CFR part 53. In addition, under 40 CFR 50.11(f), determinations as to whether the NO<sub>2</sub> standards have been met are to be made in accordance with the data handling conventions and computations in 40 CFR part 50, appendix S, "Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (NO<sub>2</sub>)."

#### Sulfur dioxide (SO<sub>2</sub>)

On June 22, 2010, revisions to the SO<sub>2</sub> NAAQS were published in the Federal Register (73 FR 35520) and codified at 40 CFR 50.17. EPA strengthened the primary (health-based) SO<sub>2</sub> NAAQS by adding a 1-hour SO<sub>2</sub> standard at 75 ppb to reduce exposure to high short-term (five minutes to 24 hours) concentrations of SO<sub>2</sub>. EPA revoked the two existing primary standards of 140 ppb averaged over a 24-hour period, and 30 ppb averaged over a year

after determining that they did not provide any health benefits in addition to those provided by the 1-hour standard of 75 ppb. The 1-hour standard is achieved when the 3-year average of the 99<sup>th</sup> percentile of the annual distribution of the daily maximum 1-hour average concentrations is less than or equal to the 75 ppb, as determined in accordance with 40 CFR part 50, appendix T (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur, as SO<sub>2</sub>). Under 40 CFR 50.17, ambient SO<sub>2</sub> concentrations are to be measured by either: (1) a Federal reference method based on appendix A-1 or appendix A-2 (Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere) to 40 CFR part 50; or (2) an equivalent method designated by EPA in accordance with 40 CFR part 53.

### **III. What are the revisions that the State requested?**

The State has requested that EPA approve the following SIP revision to reflect EPA's revised primary and secondary SO<sub>2</sub> and NO<sub>2</sub> NAAQS:

- A. Rule 326 IAC 1-3-4(b)(1), Ambient air quality standards for "Sulfur oxides as (SO<sub>2</sub>).". The revisions IDEM made are consistent with the provisions contained in 40 CFR 50.17. IDEM updated 326 IAC 1-3-4(b)(1)(A) to contain the revised primary NAAQS for SO<sub>2</sub>, and deleted language that referenced

standards EPA revoked, as well as outdated Federal Register citations and test methods for the primary NAAQS for SO<sub>2</sub>. IDEM also amended 326 IAC 1-3-4(b)(1)(B), making it consistent with the provisions in 40 CFR 50.5(a) through (c), thereby, updating its reference to the procedures to determine compliance with the secondary NAAQS for SO<sub>2</sub>. EPA finds the revision approvable.

Rule 326 IAC 1-3-4(b)(5), Ambient air quality standards for "Nitrogen dioxide (NO<sub>2</sub>).\" The revisions IDEM made are consistent with the provisions contained in 40 CFR 50.11. IDEM made corrections to 326 IAC 1-3-4(b)(5)(A) to add the revised primary NAAQS in the rule for NO<sub>2</sub>, and 326 IAC 1-3-4(b)(5)(B) to delete language including references to outdated Federal Register citations and test methods for the primary ambient air quality standards for NO<sub>2</sub>. IDEM also amended 326 IAC 1-3-4(b)(5)(C), making it consistent with the provisions in 40 CFR 50.11 (b) through (g), thereby, updating its reference to the procedures to determine compliance with the secondary NAAQS for NO<sub>2</sub>. EPA finds the revision approvable.

#### **IV. What action is EPA taking?**

EPA is approving revisions to the Indiana SIP to amend and update 326 IAC 1-3-4 to include the NAAQS for NO<sub>2</sub> and SO<sub>2</sub>, as codified at 40 CFR part 50.



We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

#### **V. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and

applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act

of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this

action published in the Proposed Rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

Dated: April 29, 2013

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.770 the table in paragraph (c) is amended by revising the entry for "1-3-4" to read as follows:

**§ 52.770 Identification of plan.**

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(c) \* \* \*

**EPA-APPROVED INDIANA REGULATIONS**

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *		* * *		
1-3-4	Ambient air quality standards	1/16/2013	[INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS]	
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[FR Doc. 2013-11296 Filed 05/13/2013 at 8:45 am; Publication Date: 05/14/2013]